

#### **§ 4.321**

§§ 4.236(b), 4.241(d), or 4.242(f) to the LTRO designated under § 4.236(b). The duplicate record must be conformed to the original by the LTRO and will thereafter be available for inspection either at the LTRO or at the office of the Superintendent. If a transcript of the hearing was not prepared, the administrative law judge or Indian probate judge will have a transcript prepared that must be forwarded to the Board within 30 days from receiving a copy of the notice of appeal.

#### **§ 4.321 Notice of transmittal of record on appeal.**

The original record on appeal must be forwarded by the LTRO to the Board by certified mail. Any objection to the record as constituted must be filed with the Board within 15 days of receiving the notice of docketing issued under § 4.332.

#### **§ 4.322 Docketing.**

The appeal will be docketed by the Board upon receiving the administrative record from the LTRO. All interested parties as shown by the record on appeal must be notified of the docketing. The docketing notice must specify the time within which briefs may be filed and must cite the procedural regulations governing the appeal.

#### **§ 4.323 Disposition of the record.**

(a) After the Board makes a decision other than a remand, it must forward to the LTRO designated under § 4.236(b):

(1) The record filed with the Board; and

(2) All documents added during the appeal proceedings, including any transcripts prepared because of the appeal and the Board's decision.

(b) The LTRO must conform the duplicate record required by § 4.320(d) to the original sent under paragraph (a)(1) of this section and forward the conformed record to the Superintendent concerned.

#### **43 CFR Subtitle A (10-1-08 Edition)**

APPEALS TO THE BOARD OF INDIAN APPEALS FROM ADMINISTRATIVE ACTIONS OF OFFICIALS OF THE BUREAU OF INDIAN AFFAIRS: ADMINISTRATIVE REVIEW IN OTHER INDIAN MATTERS NOT RELATING TO PROBATE PROCEEDINGS

SOURCE: 54 FR 6487, Feb. 10, 1989, unless otherwise noted.

#### **§ 4.330 Scope.**

(a) The definitions set forth in 25 CFR 2.2 apply also to these special rules. These regulations apply to the practice and procedure for: (1) Appeals to the Board of Indian Appeals from administrative actions or decisions of officials of the Bureau of Indian Affairs issued under regulations in 25 CFR chapter 1, and (2) administrative review by the Board of Indian Appeals of other matters pertaining to Indians which are referred to it for exercise of review authority of the Secretary or the Assistant Secretary—Indian Affairs.

(b) Except as otherwise permitted by the Secretary or the Assistant Secretary—Indian Affairs by special delegation or request, the Board shall not adjudicate:

(1) Tribal enrollment disputes;

(2) Matters decided by the Bureau of Indian Affairs through exercise of its discretionary authority; or

(3) Appeals from decisions pertaining to final recommendations or actions by officials of the Minerals Management Service, unless the decision is based on an interpretation of Federal Indian law (decisions not so based which arise from determinations of the Minerals Management Service, are appealable to the Interior Board of Land Appeals in accordance with 43 CFR 4.410).

#### **§ 4.331 Who may appeal.**

Any interested party affected by a final administrative action or decision of an official of the Bureau of Indian Affairs issued under regulations in title 25 of the Code of Federal Regulations may appeal to the Board of Indian Appeals, except—

(a) To the extent that decisions which are subject to appeal to a higher official within the Bureau of Indian Affairs must first be appealed to that official;